

ANTITRUST CIVIL PROCESS ACT

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AUGUST 28, 1962.—Ordered to be printed
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Mr. CELLER, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 167]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 167) to authorize the Attorney General to compel the production of documentary evidence required in civil investigations for the enforcement of the antitrust laws, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1 through 24, inclusive, and the Senate agree to the same.

EMANUEL CELLER,
PETER W. RODINO, Jr.,
BYRON G. ROGERS,
WILLIAM M. McCULLOCH,
Managers on the Part of the House.

JAMES O. EASTLAND,
ESTES KEFAUVER,
OLIN D. JOHNSTON,
EVERETT MCKINLEY DIRKSEN,
ROMAN L. HRUSKA,
Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 167) to authorize the Attorney General to compel the production of documentary evidence required in civil investigations for the enforcement of the antitrust laws, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

DEFINITIONS

Amendments Nos. 1 and 3: Provide formal changes made necessary by the deletion provided in amendment No. 2 as proposed by the House.

Amendment No. 2: Provides for the deletion from the antitrust laws to which the bill applies as proposed by the Senate of section 3 of the Robinson-Patman Act as proposed by the House.

Amendment No. 4: Deletes as proposed by the House reference to "antitrust agency".

Amendment No. 5: Deletes as proposed by the House the definition of the term "antitrust agency" as proposed by the Senate.

Amendments Nos. 6, 7, and 8: Correct the subparagraph numbers as proposed by the House; and delete the words "any final order of any antitrust agency, or" as proposed by the Senate and stricken out as proposed by the House.

Amendments 9, 10, 11, 12, and 13: Correct the subparagraph numbering.

CIVIL INVESTIGATIVE DEMAND

Amendment No. 14: Adopt amendment No. 14 as proposed by the House which inserts "under investigation."

Amendment No. 15: Inserts before "antitrust investigation" as proposed by the Senate "a civil" as proposed by the House.

Amendment No. 16: As proposed by the House, the court in any proceeding under section 5(d) may direct the place of production and inspection of the documents demanded.

Amendment No. 17: Eliminates useless phraseology as proposed by the House.

Amendment No. 18: Strikes out as proposed by the House "or any antitrust agency" as proposed by the Senate.

Amendments Nos. 19, 20, and 22: Strike out as proposed by the House "court, grand jury, or antitrust agency", and insert "court or grand jury".

Amendments Nos. 21 and 23: Strike out as proposed by the House "or any antitrust agency" as proposed by the Senate.

Amendment No. 24: As proposed by the Senate any person, not including a natural person by virtue of the definition of person in the

bill, could be punished for disobedience of a court order under the bill. The amendment of the House makes a natural person subject to such punishment as agreed to by the managers on the part of the Senate.

In substance, the conference report makes the following changes in the bill: It deletes from the bill the Robinson-Patman Act as proposed by the House. Persons on whom civil investigative demands may be made would include persons, other than natural persons, who may possess documentary material relevant to a civil antitrust investigation, but the civil investigative demand procedure is limited to such persons who are under investigation as proposed by the House. As proposed by the Senate the material obtained under a civil investigative demand would be available to any agency charged by law with the administration of any antitrust law prescribed in the bill instead of only the Department of Justice as proposed by the House. The conference report would restrict such material to the Department of Justice. The report also includes a natural person as punishable for disobedience to a court order issued in the enforcement of the provisions of the bill.

The purpose of the civil investigative demand bill is to provide the Department of Justice with a much-needed tool for the fair, effective enforcement of the antitrust laws.

While a limitation of the civil investigative demand procedure to companies "under investigation" may somewhat restrict the use of this procedure by exempting companies in no way involved in a subject under inquiry by the Department, the essential purpose of the bill is clearly still fulfilled, for the civil investigative demand procedure will be available to the Department where a company is involved in a matter under investigation by the Department.

Similarly, the basic aim of the bill is not frustrated by denying the Department of Justice the right to make available to the Federal Trade Commission documents obtained by the civil investigative demand procedure.

Accordingly, the managers on the part of the House recommend passage of the House version of the bill as agreed by the conferees, pursuant to the action of the House.

EMANUEL CELLER,
PETER W. RODINO, Jr.,
BYRON G. ROGERS,
WILLIAM M. McCULLOCH,
Managers on the Part of the House.

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